

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

FH PARTNERS, LLC

APPELLANT,

**v.
COMPLETE HOME CONCEPTS,
INC., ET AL.**

RESPONDENTS.

DOCKET NUMBER WD74653

DATE: September 18, 2012

Appeal From:

Platte County Circuit Court
The Honorable Owens Lee Hull, Jr., Judge

Appellate Judges:

Division Three: Victor C. Howard, Presiding Judge, Karen King Mitchell, Judge and Cynthia L. Martin, Judge

Attorneys:

Matthew L. Faul and Randall F. Scherck, Kansas City, MO, for appellant.

John R. Shank, Jr., Kansas City, MO, for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
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FH PARTNERS, LLC,

APPELLANT,

v.

**COMPLETE HOME CONCEPTS,
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RESPONDENTS.

No. WD74653

Platte County

Before Division Three: Victor C. Howard, Presiding Judge, Karen King Mitchell, Judge and Cynthia L. Martin, Judge

This case involves a dispute over the right to collect two commercial loans, Loans A and B, issued by a bank which failed and became subject to the control of the Federal Deposit Insurance Corporation. FH Partners, LLC claims it has the right to collect both loans. FH Partners appeals from the trial court's grant of summary judgment in favor of Complete Home Concepts, Inc., the borrower on the loans, and James G. Goodwin, Sheryl A. Goodwin, Jeffrey W. Goodwin, Gail B. Goodwin, Ralph Haughenberry, Jennifer M. Haughenberry, JJJ Enterprises, LLC, and J-Jay Properties, LLC, the guarantors on the loans.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED FOR FURTHER PROCEEDINGS.

DIVISION THREE HOLDS:

(1) Where the uncontested evidence demonstrates that as of the date the FDIC assigned its rights in Loan A to FH Partners, it owned no rights of any kind in Loan A, FH Partners acquired no rights in Loan A and could not seek to collect the Loan.

(2) The FDIC's effort to retroactively remediate its lack of an interest in Loan A by entering into an agreement with the party holding a 100% interest in Loan A was not legally effective to create rights in Loan A for FH Partners.

(3) Where the uncontested evidence demonstrates that as of the date the FDIC assigned its rights in Loan B to FH Partners, it owned a 36% interest in the Loan, and the obligation as lead lender under a participation agreement to enforce the Loan, the FDIC effectively assigned all of these rights to FH Partners, and FH Partners was entitled to pursue collection of Loan B.

Opinion by Cynthia L. Martin, Judge

September 18, 2012

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